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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,225	08/08/2001	Dale Richard McBride	11909/301	9868

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EXAMINER

WILLATT, STEPHANIE L

ART UNIT PAPER NUMBER

3732

DATE MAILED: 11/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/682,225

Applicant(s)

MCBRIDE, DALE RICHARD

Examiner

Stephanie L. Willatt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. -See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 20-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 24 September 2003. These drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first interior layer must be shown as being partially affixed to the second interior layer or this limitation canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. In the amendment to the specification, double brackets are formed around "(2)" wherever it appears, i.e. line 3 of paragraph [0019]. Is this supposed to mean that "(2)" is being deleted? Anything being deleted from the specification or the claims should be marked by a strikethrough, not double brackets.

### ***Claim Objections***

3. Claims 1-15 are objected to because of the following informalities:

- In lines 5 and 7 of claim 1, it recites "the second end of the bladder".

There is insufficient antecedent basis for this limitation in this claim.

- In lines 5 and 8 of claim 1, it recites "the first end of the bladder". There is insufficient antecedent basis for this limitation in this claim.
- In line 11 of claim 1, it recites "the pressurized second end of the bladder." There is insufficient antecedent basis for this limitation in this claim.
- "Means allowing the pressurized expulsion of said liquids" as recited in line 11 of claim 1 appears to be a double inclusion of "means to inject liquids or semi-liquids into the second end of the bladder" recited in line 7 of claim 1, since the nipple (4D) seems to perform both of these function.
- In line 2 of claim 4, it recites "the diaphragm". There is insufficient antecedent basis for this limitation in this claim.
- Claims 4-10, 12, 13, and 15 state that they were "previously withdrawn". However, claims 4-10, 12, 13, and 15 were never withdrawn from the prosecution.
- Claim 21 states that is was "previously presented". However, the status of claim 21 is "currently amended".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-15 and 20-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. While the prior art setting may be mentioned in general terms, the essential novelty, the essence of the invention, must be described in such details as to enable those persons skilled in the art to make and utilize the invention.

Lines 4 and 5 of claim 1 state that the interior layer is partially affixed to the exterior layer, and where unaffixed, forms a barrier between the first and second ends of the bladder. The specification, original claims, and drawings do not disclose that the interior layer is *partially* affixed to the exterior layer.

Claim 4 states that the diaphragm extends from the first interior layer. This recitation implies that the diaphragm is not formed by the first interior layer. According to lines 7-11 of paragraph [0021], the unbonded portions of the first interior layer forms the diaphragm.

Claims 4 and 20 state that the first and second interior layers are partially affixed to each other. Claim 4 goes on to recite that the unaffixed portion of the second interior layer constitutes the interior of the second end of the bladder. Where are the first and second interior layers (1B1 and 1B2) affixed to each other and unaffixed to each other? The drawings do not show that the first and second interior layers are affixed to each other at all. This makes it difficult to understand what the diaphragm is.

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6. The lack of a prior art rejection should not be construed as an indication of allowability of the claims.

**Conclusion**

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie L. Willatt whose telephone number is 703-305-6316. The examiner can normally be reached on M-F (8:30-6:00) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on 703-308-2582. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
slw

  
KEVIN SHAVER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700